

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

US BANK, NATIONAL ASSOCIATION,

Plaintiff,

vs.

FIDELITY NATIONAL TITLE GROUP,
 INC. *et al.*,

Defendants.

Case No.: 2:21-cv-00455-GMN-BNW

ORDER

Pending before the Court is the Motion to Extend Stay, (ECF No. 58), filed by Defendant Chicago Title Insurance Company, Chicago Title of Nevada, Inc., and Fidelity National Title Group, Inc. (collectively, “Defendants”). Plaintiff U.S. Bank National Association (“Plaintiff”) filed a Response, (ECF No. 59), and Defendant filed a Reply, (ECF No. 60).

For the reasons discussed herein, the Court **GRANTS** Defendants’ Motion to Extend Stay.

This case arises out of the numerous and long-standing HOA foreclosure actions prevalent in Nevada. Currently at issue in these types of cases is whether a title insurance claim involving an HOA assessment lien, and subsequent foreclosure sale, was covered by the corresponding title insurance policy. (Mot. Extend Stay 2:1–15, ECF No. 58). The parties dispute how to interpret the standard form language in the 1992 American Land Title Association (“ALTA”) loan policy of title insurance and the California Land Title Association (“CLTA”) 100/ALTA 9 endorsement. (*Id.* 3:23–4:6). In 2021, the Court granted a stay in many

1 of the title insurance cases, including this one, pending the Ninth Circuit’s resolution of *Wells*
 2 *Fargo Bank, N.A. v. Fidelity National Title Ins. Co.*, Ninth Cir. Case No. 19-17332 (Dist. Ct.
 3 Case No. 3:19-cv-00241-MMD-WGC) (the “*Wells Fargo II* Appeal”), which the parties
 4 anticipated would interpret the policy language at issue in the 1992 ALTA loan policy and the
 5 CLTA 100/ALTA 9 endorsement. (See Stipulation 2:1–15, ECF No. 55); (Mot. Extend Stay
 6 3:23–4:5). However, the *Wells Fargo II* Appeal concluded without reaching the policy
 7 interpretation issue. (See Memorandum/Opinion of USCA, *Wells Fargo Bank, N.A. v. Fidelity*
 8 *National Title Insurance Company*, Case No. 3:19-cv-00241-MMD-CSD (D. Nev. 2019), ECF
 9 No. 17) (vacating and remanding the district court’s order granting a motion to dismiss without
 10 leave to amend). Defendants now claims that *PennyMac Corp. v. Westcor Land Title Ins. Co.*,
 11 Nev. Sup. Ct. Case No. 83737 (Eighth Judicial District Case No. A-18-781257-C) (the
 12 “*PennyMac* Appeal”), which is currently pending in the Nevada Supreme Court, will shed light
 13 on the policy language because it also concerns the 1992 ALTA loan policy and the CLTA
 14 100/ALTA 9 endorsement. (Mot. Extend Stay 3:12–23). See also *PennyMac Corp. v. Westcor*
 15 *Land Title Ins. Co.*, No. A-18-781257-C, 2021 WL 5492852, at *9–15, 21 (Nev. Dist. Ct. Oct.
 16 22, 2021).

17 A district court’s power to stay a proceeding is “incidental to the power inherent in every
 18 court” to manage its docket and promote the efficient use of judicial resources. *Landis v. North*
 19 *American Co.*, 299 U.S. 248, 254 (1936). However, “[o]nly in rare circumstances will a litigant
 20 in one cause be compelled to stand aside while a litigant in another settles the rule of law that
 21 will define the rights of both,” and a party seeking such a stay must “make out a clear case of
 22 hardship or inequity in being required to go forward, if there is even a fair possibility that the
 23 stay for which he prays will work damage to someone else.” *Id.* In considering whether a
 24 “*Landis Stay*” is warranted, the Court weighs “the competing interests which will be affected
 25 by the granting or refusal to grant a stay.” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th

1 Cir. 2005). Those competing interests are: (1) the possible damage which may result from a
2 stay, (2) hardships or inequities a party may suffer if required to go forward, and (3) the
3 “orderly course of justice measured in terms of the simplifying or complicating of issues, proof,
4 and questions of law” which could be expected to result from a stay. *Id.*

5 Here, the Court finds that the benefits of continuing the stay outweigh any possible
6 hardships of lifting it. After a review of the issues at stake in the *Wells Fargo II* Appeal, the
7 *PennyMac* Appeal, and this case, it appears to the Court that the *PennyMac* Appeal may
8 provide the exact interpretation of the 1992 ALTA loan policy and the CLTA 100/ALTA 9
9 endorsement that the parties originally sought from the *Wells Fargo II* Appeal. Moreover, as
10 this Court has observed, “great hardship would be borne by the parties” if the case is required
11 to go forward prior to the resolution of *PennyMac* because the “attorneys could engage in
12 costly discovery and motions practice to the potential detriment of their clients, all while the
13 specter of a decision from the Supreme Court of Nevada capable of changing the relevant
14 issues to the case hangs overhead.” *U.S. Bank National Association v. Fidelity National Title*
15 *Group, Inc., et al.*, No. 2:21-cv-00181, 2022 WL 17093198, at *2 (D. Nev. Nov. 21, 2022);
16 *Deutsche Bank National Trust Company v. Fidelity National Title Group, Inc., et al.*, No. 2:19-
17 cv-00409, 2022 WL 17813070, at *2 (D. Nev. Dec. 1, 2022) (“While being required to defend
18 a lawsuit . . . does not constitute a clear case of hardship or inequity, being required to
19 defendant a lawsuit wherein questions of law pertinent to resolution of the merits change mid-
20 way through the litigation would pose hardship to both parties.”).

21 The Court finds no reason why waiting for the same interpretations from the *PennyMac*
22 Appeal would now cause prejudice or fail to serve the interests of judicial economy, especially
23 when considering that Plaintiff has not identified any hardship, other than the passage of time,
24 that it will suffer by continuing the stay. Further, any hardship caused by delay is minimal as
25 “the Supreme Court of Nevada seems close to reach a decision in *PennyMac*, [since] briefing

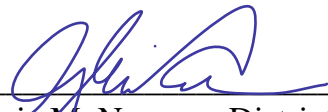
1 has concluded.” *U.S. Bank National Association*, 2022 WL 17093198, at *2 (D. Nev. Nov. 21,
2 2022). Therefore, the “orderly course of justice” in this matter is best served by continuing the
3 stay while the Nevada Supreme Court considers the *PennyMac* Appeal. *Lockyer*, 398 F.3d at
4 1110.

5 Accordingly,

6 **IT IS HEREBY ORDERED** that Defendant’s Motion to Extend Stay, (ECF No. 58), is
7 **GRANTED.**

8 **IT IS FURTHER ORDERED** that the parties shall file a Joint Status Report every 90
9 days, beginning on April 13, 2023, addressing the status of the *PennyMac* Appeal.

10 **DATED** this 17 day of January, 2023.

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14 Gloria M. Navarro, District Judge
15 United States District Court
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